

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**May 22, 2024**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

GUENTER: SCHIER (DECEASED  
WASHINGTON STATE LAND OWNER  
MISNOMERED AS SCHIER, GUENTER  
W. SCHIER, ALSO SHOWN OF RECORD  
AS GUENTER WERNER) “DECEDENT”);  
KELSEY: SCHIER, (“Heir/Beneficiary),  
Claimant,  
v.

No. 1:24-CV-03029-SAB

OPTION ONE MORTGAGE LOAN TRUST  
2007-4 ASSET-BACKED CERTIFICATES,  
SERIES 2007-4; WELLS FARGO,  
NATIONAL ASSOCIATION AS TRUSTEE  
FOR OPTION ONE MORTGAGE LOAN  
TRUST 2007-4, ASSET-BACKED  
CERTIFICATES, SERIES 2007-4, NEWREZ  
MORTGAGE, LLC; PHH MORTGAGE  
SERVICES, INC.; COVIUS d/b/a Nationwide  
Title Clearing, LLC et al; WESTERN  
PROGRESSIVE; NETTY BANGALA, VICE  
PRESIDENT OF SAND CANYON  
CORPORATION f/k/a Option One Mortgage  
Corporation (“Robo-Signor”),  
Defendants.

**ORDER GRANTING  
DEFENDANTS’ MOTION TO  
DISMISS**

1 Before the Court are Defendants' Motion to Dismiss Plaintiff's Complaint,  
2 ECF No. 21; Plaintiff's Motion to Overrule or Sustain [sic], ECF No. 24,  
3 Plaintiff's Motion to Hear Motion to Dismiss ECS21 and Response to Motions to  
4 Dismiss ECS 31 with Oral Argument, ECF No. 32, and Motion to Expedite, ECF  
5 No. 33. The motions were heard without oral argument.<sup>1</sup>

6 Plaintiff is proceeding *pro se*. Defendants are represented by Nicholas  
7 Reynolds and Robert Wayne Norman Jr.

8 Plaintiff filed his Complaint on February 28, 2024. It appears that Plaintiff is  
9 seeking to stop the foreclosure of property that had been purchased by Plaintiff's  
10 father, Guenter W. Schier. Mr. G. Schier had a mortgage that was secured by a  
11 Deed of Trust. Mr. G. Schier passed away on or about January 31, 2023.<sup>2</sup> No  
12 payments have been made on the mortgage loan since February 1, 2023.  
13 Plaintiff is bringing the following claims: (1) violation of the federal Real Estate  
14 Settlement Procedures Act; (2) violation of the Fair Credit Reporting Act; (3)  
15 violation of the Fair Debt Collection Practices Act; (4) Quiet Title; (5) Permanent  
16 Injunctive Relief; (6) violation of the Washington Consumer Protection Act; and  
17 (7) common law fraud.

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19 <sup>1</sup> The Court has determined that oral argument is not necessary. *See* Local Rule  
20 7(i)(3)(iii). Therefore, Plaintiff's Motion for Oral Argument, ECF No. 32, is  
21 dismissed as moot.

22 <sup>2</sup> Plaintiff indicates that he is the "attorney-in-fact" representing the interests of the  
23 Estate of Guenter W. Schier. Plaintiff does not appear to be a licensed member of  
24 the Washington State Bar Association or the Federal bar. Under Local Rule 83.6,  
25 Plaintiff, appearing *pro se*, is not permitted to represent the Estate of Guenter W.  
26 Schier. *See also Johns v. County of San Diego*, 114 F.3d 8974, 876-877 (9th Cir.  
27 1997) (explaining a non-attorney may appear *pro se* on his own behalf but has not  
28 authority to appear as an attorney for others).

1 Defendants assert this Court does not possess subject matter jurisdiction  
2 over this action because of Plaintiff's lack of standing. The Court agrees. Here,  
3 Defendants have shown that Plaintiff did not obtain letters of administration and no  
4 personal representative of the estate was appointed by the state courts. Until an  
5 estate is closed, the heirs may not treat estate real property as their own. *In re*  
6 *Estate of Jones*, 152 Wash.2d 1, 14 (2004). As such, Plaintiff lacks standing to  
7 bring this action on behalf of the Estate of Schier as a matter of law.<sup>3</sup> And Plaintiff  
8 has no standing to bring this action on behalf of himself.

9 In addition, Plaintiff failed to properly serve Defendant Wells Fargo Bank,  
10 Defendant NewRez LLC, PHH Mortgage Corporation, Defendant Western  
11 Progressive, and Defendant Netty Bangala. A federal court is without personal  
12 jurisdiction over a defendant unless the defendant has been served in accordance  
13 with Fed. R. Civ. P. 4. *S.E.C. v. Ross*, 504 F.3d 1130, 1138 (9th Cir. 2007) (noting  
14 that in the absence of proper service of process, the district court has no power to  
15 render any judgment against the defendant's person or property unless the  
16 defendant has consented to jurisdiction or waived the lack of process). In response  
17 to Defendants' assertions that Plaintiff failed to properly serve them, Plaintiff  
18 submitted Declarations of Due Diligence and Proof of Service. ECF Nos. 25-30.  
19 However, these Declarations do not establish that the above-named Defendants  
20 were properly served.

21 Finally, the claims for relief set forth in Plaintiff's Complaint do not  
22 adequately plead specific facts necessary to state a claim upon which relief may be  
23 granted under Fed. R. Civ. P. 12(b)(6).

24 The Court grants Defendants' Motion to Dismiss. In addition, the Court  
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26 <sup>3</sup> The Court rejects Plaintiff's argument that probate was not necessary because  
27 both he and his father have the right to adverse possession, presumably of the  
28 property that is subject to the Deed of Trust.

1 declines to grant Plaintiff leave to amend his Complaint. Plaintiff lacks standing to  
2 bring an action on behalf of his father's Estate. His Complaint cannot possibly be  
3 cured by allegations of additional facts. *See Lopez v. Smith*, 203 F.3d 1122, 1130  
4 (9th Cir. 2000).

5 Accordingly, **IT IS HEREBY ORDERED:**

6 1. Defendant's Motion to Dismiss, ECF No. 21, is **GRANTED**.

7 2. All pending motions are denied as moot.

8 3. The Clerk of Court is directed to **close** the file.

9 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,  
10 forward copies to Plaintiff and counsel, and **close** the file.

11 **DATED** this 22nd day of May 2024.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

17 Stanley A. Bastian  
18 Chief United States District Judge  
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